

REMARKS

Reconsideration and allowance are respectfully requested. Claims 1-6, 11-17 have been amended. Claims 18-20 have been added. Claims 1-20 remain pending.

The Examiner objected to the Abstract. The Abstract has been revised to address the objection.

The Examiner objected to the disclosure as not describing Figs. 9 and 10 under the Brief Description of the Drawings. The specification has been amended to describe Figs. 9 and 10. In addition, the disclosure has been amended to address the objection to detailed description portion. No new matter has been added.

The objection due to improper multiple dependent claims has been addressed by revising claim dependencies.

Claims 1 and 13 have been amended to remove the rejection under 35 U.S.C. 112.

Claims 1, 2 and 4 stand rejected under 35 U.S.C. 102(b) as being anticipated by Bates. Claim 1 has been amended to define the invention more clearly and thus obviate the rejection. In particular, claim 1 as amended recites that the body plate member is of a size smaller than the body so that only the body plate member can be received in said side aperture. This feature is clearly shown in the Figures.

In Bates, the plate member 14 is clearly larger than the body 16, 17. Thus, if the plate member were received in a aperture, the body would also be able to enter the aperture. Therefore, the rejection should be withdrawn.

With regard to claim 2, this claim has been amended to include the structural unit and thus aperture in the combination. Bates does not disclose a unit having an aperture or a plate member received in the aperture. Thus, the rejection should be withdrawn.

Claim 13 stands rejected under 35 U.S.C. 102(b) as being anticipated by Lange. Claim 13 has been amended to define the invention more clearly and thus, obviate the rejection. In particular, claim 13 as amended recites that the structure has a planar portion defining at least one aperture there-through, wherein the aperture has an essentially circular shape and the planar portion defines a plurality of side portions

protruding inwardly into the at least one side aperture and wherein each of said side portions defines a bolt-receiving aperture through the planar portions. Thus, the aperture and the bolt-receiving aperture are defined to be through the same planar portion. In Lange, the apertures 26 are in a plane that is different from a plane that defines aperture 22. Therefore, the rejection should be withdrawn.

Claim 3 stands rejected as being unpatentable over Bates. Claim 3 depends from claim 1 and is considered to be allowable for the reasons advanced above with regard to claim 1 and for the additional reason that the added subject matter thereof is not taught or suggested by the prior art of record.

Claim 14 stands rejected as being unpatentable over Lange. Claim 14 depends from claim 13 and is considered to be allowable for the reasons advanced above with regard to claim 13 and for the additional reason that the added subject matter thereof is not taught or suggested by the prior art of record.

Claim 15 stands rejected as being unpatentable over Bates. Claim 15 depends from claim 13 and is considered to be allowable for the reasons advanced above with regard to claim 13 and for the additional reason that the added subject matter thereof is not taught or suggested by the prior art of record.

Claim 17 has been amended to include subject matter of claim 1 and claim 13 and is considered to be allowable over the prior art of record.

With regard to the functional language in the claims, Applicant is merely employing functional language to further limit the recited structure.

The C.C.P.A. had addressed the issue of functional language limiting the claimed structure. In In re Venezia, 189 U.S.P.Q. 149, 151 (C.C.P.A. 1976), the Board sustained the rejection of claims under section 112, second paragraph, since the functional language in the claim was directed to assembly to take place in the future, and the claim recited no positive structural relationships. The C.C.P.A. reversed, stating that the claimed invention included structural limitations on each part and those structural limitations were defined by how the parts are to be interconnected in the final assembly. Id. The court also stated that terms "adapted to be affixed" or "when said housing is in its repositioned location", for example, define present structures or attributes of the parts identified, which limits that structure. The court further stated that

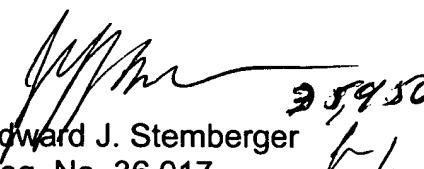
there is nothing wrong in defining structures of the components of the completed assembly in terms of the interrelationship of the components, or the attributes they must possess. Id. at 152.

The C.A.F.C. in Pac-Tec Inc. v. Amerace Corp., 14 U.S.P.Q. 2d 1871 (Fed. Cir. 1990) affirmed the district court's finding of validity. The district court found, when considering the claims as wholes, that functional language such as "adapted to" and "thereby", for example, constitutes structural limitations, citing In re Venezia, and that functional language cannot be disregarded in such cases. Pac-Tec Inc. v. Amerace Corp. at 1876.

Accordingly, Applicant submits that the functional language defined in the claims further limits the specific structure recited and cannot be disregarded. There is no support for the Examiner to disregard any language in a claim. Thus, when properly considering the structural and functional limitations in the claims, it is clear that the claimed invention is neither taught nor suggested by the prior art of record.

All objections and rejections having been addressed, it is respectfully submitted that this application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,


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